REMARKS

The following Response addresses the Final Office Action of September 6, 2006, as well as the Advisory Action of January 9, 2007. The Advisory Action addresses a first After-Final Response dated December 11, 2006.

Request for Continued Examination (RCE)

A Request for Continued Examination (RCE) is being filed on the same date herewith. The RCE ensures entry of this Response.

Regarding the 35 U.S.C. § 102 Rejection

Claims 1-44 were rejected under 35 U.S.C. § 102(e) as being anticipated by cited U.S. Patent No. 6,412,008 to Fields et al. (referred to below as "Fields"). Applicant respectfully traverses this rejection for the following reasons. Previous arguments addressing the Fields document are to be considered as incorporated herein by reference.

Independent claim 1 (as amended) is reproduced below for the convenience of the Patent Office, with emphasis added.

1. A server system, comprising:

one or more computers;

an application executing on the computers to receive and process client requests; and

a constraint system to constrain operation of the application according to multiple different constraints, the constraint system comprising a hierarchy of constraint layers, with each constraint layer containing a set of one or more constraints that customize operation of the application, *wherein the constraint layers in the hierarchy have different respective priorities associated therewith,*

wherein the constraint layers are organized within the hierarchy to provide a relation between a first constraint layer and a lower-priority second constraint layer such that the first constraint layer precludes behavior defined by the second constraint layer if the behavior of the second constraint layer conflicts with behavior defined by the first constraint layer, but the second constraint layer does not constrain the first constraint layer, wherein the relation between the first constraint layer and the second constraint layer holds even when the first constraint layer is applied prior to the second constraint layer.

Fields discloses a technique for customizing a network file. Customization of the network file is achieved by distributing the customization tasks between a requesting client 30 and a server 32. Note column 4, lines 1-5 of Fields. In the server side of the process, the server 32 receives an HTTP request from the client 30 that specifies various data, such as a user agent string, various corporate options, and various personal options. The server 32 retrieves and customizes the network file based on the supplied data in the request. The server 32 also can embed return customization information in its response to the client 30. In the client side of the process, the client 30 receives the customized network file including the return customization information from the server 32. The client 30 can then further customize the network file based on the return customization information supplied by the server 32. Note generally column 4, line 65 to column 5, line 17 of Fields.

Fields does not disclose or suggest at least the bolded-italicized portions of claim 1 when considered in the context of the claim as read as a whole. Namely, Fields nowhere discloses or suggests that its constraints are part of a "hierarchy of constraint layers," wherein "constraint layers in the hierarchy have different respective priorities

associated therewith," further wherein "the constraint layers are organized within the hierarchy to provide a relation between a first constraint layer and a lower-priority second constraint layer such that **the first constraint layer precludes behavior defined by the second constraint layer if the behavior of the second constraint layer conflicts with behavior defined by the first constraint layer**, but the second constraint layer does not constrain the first constraint layer, wherein **the relation between the first constraint layer and the second constraint layer holds even when the first constraint layer is applied prior to the second constraint layer.**"

More specifically, Fields imposes a plurality of constraints. Some of these constraints appear to be imposed temporally prior to other constraints. The Patent Office appears to be emphasizing the temporal nature of this operation in making its rejection. For instance, the January 9, 2007 Advisory action characterizes Fields as "customizing an application in multiple stages" (see page 2 of the Advisory Action). However, claim 1 distinguishes over such an interpretation of Fields. Assume, for instance, that Fields performs customization X followed in time by customization Y (where the operations "X" and "Y" are stated in generic terms to facilitate explanation). Fields does not disclose that the customization X operation constitutes a first constraint layer that "precludes behavior" defined by the customization Y if the behavior of the customization Y conflicts with behavior defined by the customization X. In other words, in Fields, the customization X operation does not appear to limit what can be performed in the later customization Y. Indeed, Fields does not even discuss a circumstance in which one type of customization might conflict with another type of customization.

For at least the above-identified reasons, the Applicant submits that independent claim 1 is neither anticipated nor rendered obvious by Fields. Independent claims 9, 24, 27, and 29 now include related subject matter to claim 1. These claims therefore

distinguish over Fields for reasons similar to those presented above with respect to claim 1.

The remaining independent claim, i.e., claim 17, is reproduced below in full with emphasis:

17. One or more computer-readable media comprising computer-executable instructions that, when executed, implement a computer software architecture on one or more computers, comprising:

a constraint hierarchy of multiple constraint layers, each constraint layer containing a set of one or more constraints that constrain operation of an application, the constraint layers being organized within the constraint hierarchy such that a first constraint layer limits a second constraint layer but the second constraint layer does not limit the first constraint layer; and

a constraint resolver to resolve the constraint layers so that operation of the application is constrained by a set of the constraints in the constraint layers, wherein the constraint resolver is configured to reconcile any conflicts among constraints imposed by different constraint layers.

Fields does not disclose or suggest at least the bolded-italicized portions of claim 17 when considered in the context of the claim as read as a whole. For example Fields nowhere discloses or suggests a **"constraint resolver to resolve the constraint layers so that operation of the application is constrained by a set of the constraints in the constraint layers, wherein the constraint resolver is configured to reconcile any conflicts among constraints imposed by different constraint layers."** For instance, Fields nowhere discloses or suggests that any of user agent string information, corporate options, and personal options might conflict with each other, and hence, Fields does not

1 disclose any kind of conflict resolution mechanism or protocol. The Final Office Action

2 identifies column 5, line 55 to column 6, line 55 of Fields as having relevance to the

3 "constraint resolver" element of claim 17. This passage discloses, in part, examples of

4 corporate options and personal options. But, as stated above, Fields nowhere discloses or

5 suggests that the corporate options and personal options might conflict with each other,

6 and hence, this passage does not disclose a conflict resolution mechanism or protocol.

7 The Examiner is respectfully requested to address this specific issue, as the Final Office

8 Action and Advisory Action remain silent as to the Applicant's previous arguments

9 directed to this same technical point.

10 For at least the above-identified reasons, the Applicant submits that independent

11 claim 17 is neither anticipated nor rendered obvious by Fields.

12 The remaining pending claims are dependent claims. These claims distinguish

13 over Fields at least by virtue of their respective dependencies on the above-discussed

14 independent claims. These claims also recite additional subject matter which is not

15 disclosed or suggested by the Fields document. For at least these reasons, the dependent

16 claims are neither anticipated nor rendered obvious by Fields.

17 For the above-stated reasons, the Applicant respectfully requests the Patent Office

18 to withdraw the 35 U.S.C. § 102(e) rejection based on the Fields reference.

19

20 *Regarding the 35 U.S.C. § 103 Rejection*

21 Claims 45-50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over

22 Fields. The Applicant respectfully traverses this rejection for the following reasons.

23 The Office Action acknowledges that Fields fails to disclose the subject matter of

24 claims 45-50, but nevertheless states that it "would have been obvious for one of the

25 ordinary skill in the art at the time of the invention to modify Fields by arranging the

constraints in the order of legally mandated constraints, company mandated constraints, customer constraints, culture constraints, and end user constraints because doing so would customize the file in the same manner since changing the sequence is a design choice and not a patentably distinct feature" [See Section No. 3 of the Final Office Action.]. First, it is pointed out that the order of constraints can have an effect on the final content of an application. This is because the order defines which components of the application take precedence over others. Second, merely stating that a difference is a "design choice and not a patentably distinct feature" does not constitute a prima facie case of obviousness. Note for example, the following guidelines set forth by the USPTO at http://www.uspto.gov/web/menu/busmethp/busmeth103rej.htm:

> The rationale may be reasoned from common knowledge in the art, official notice, a known business principle, art-recognized equivalents, or legal precedent established by prior case law. A simple statement that a difference is a "design choice" or "lacks an advantage or unexpected result" is insufficient rationale to support a well written and legally sufficient rejection. These are conclusions, not statements of fact. (emphasis added)

For the above-identified reasons, the Applicant submits that the 35 U.S.C. § 103 rejection is misplaced, and respectfully requests that it be withdrawn.

Conclusion

The arguments presented above are not exhaustive; Applicant reserves the right to present additional arguments to fortify its position. Further, Applicant reserves the right to challenge the alleged prior art status of one or more documents cited in the Office Action.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and such allowance is respectfully solicited. The Examiner is urged to contact the undersigned if any issues remain unresolved by this Amendment.

Respectfully Submitted,

Dated: March 6, 2007   By: _____

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